S.B.CIVIL WRIT PETITION NO.470/2004

Sita Ram Gakkhar & Ors.

versus

State of Rajasthan & Ors.

Date of Order :: 6th November, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. R.S.Saluja, for the petitioners.
Mr. D.S.Rajvi, for the respondents.

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By an advertisement Anx.1 the Rajasthan Council of Primary Education, Jaipur invited applications from highly dedicated and professionally competent women and men for their placement as State/District/Block/Cluster level offices on short term deputation basis initially for a period of one year and that was likely to be extended subject to the performance. Under the advertisement referred above appointment to the post of Cluster Resource Centre Facilitator was to be made in the pay scale of Rs.5500-9000 from amongst the teachers Gr.III having five years' experience.

All the petitioners after undergoing selection proceedings were selected to be appointed as Cluster Resource Centre Facilitator on short term deputation. Accordingly, by an order dated 24.6.2000

the Secretary, Department of Panchayati Raj relieved them to join duties with the Rajasthan Council of Primary Education. In the order dated 24.6.2000 an stipulation was also made that the conditions for deputation shall be notified separately.

All the petitioners were posted at various clusters in District Sriganganagar, however, fixation of their pay was not made in the pay scale of Rs.5500-9000 but they were continued in their original pay scale that is of Rs.4500-7000. The Director, Rajasthan Council of Primary Education, Jaipur by an another office order dated NIL (Anx.5) further clarified for grant of next higher pay scale than to the original pay scale for the persons placed with council on deputation. In spite of that the pay scale of Rs.5500-9000 is not given to the petitioners, hence this petition for writ is preferred.

The contention of counsel for the petitioners is that the petitioners acted upon the representation made by the council for grant of pay scale of Rs.5500-9000 on being selected for appointment by way of deputation, therefore, the council should be estopped from fixing their salary in the pay scale pertaining to the post of Teacher Gr.III that is of Rs.4500-7000.

In reply to the writ petition it is stated that though as per the advertisement the pay scale for

the selected candidates is of Rs.5500-9000 and the governing council also took a decision to give higher pay scale to the selected incumbents, however, the Government of Rajasthan on 23.1.2002 resolved to withdraw the decision for grant of higher pay scale. It is also asserted that while relieving the petitioners from Panchayati Raj Department under the order dated 24.6.2000 it was made clear to the petitioners that the conditions for deputation shall be declared separately, therefore, no right accrued in their favour for getting the pay scale of Rs.5500-9000.

Heard counsel for the parties.

The petitioners in pursuant to the advertisement Anx.1 submitted application for the purpose of appointment as Cluster Resource Centre Facilitator in the pay scale of Rs.5500-9000. In pursuant to the selection proceedings conducted under the advertisement referred above, the petitioners were selected and employed with the Rajasthan Council for Primary Education. The Director, Rajasthan Council for Primary Education in pursuant to the decision of governing council dated 11.4.2001 further notified that the government servants employed with the Rajasthan Council for Primary Education on deputation shall be entitled for higher pay scale than their original one. This clearly establishes that the council from inception was of the view to grant higher

pay scales to the persons employed with it by way of deputation. The petitioners who were getting salary in the pay scale of Rs.4500-7000 being a Teacher Gr.III applied for appointment with council by way of deputation being having a chance for getting a higher pay scale that is of Rs.5500-9000. It is also pertinent to note that in the advertisement Anx.1 the council sought services of highly dedicated and professionally competent women and men. The petitioners before their employment with council on deputation also faced rigorous selection proceedings. The facts in quite unambiguous terms sow that on basis of the representation made by the respondent council the petitioners acted thereupon with an expectation to receive the pay scale of Rs.5500-9000, as such it is now not open for the council to take a “U” turn by denying the pay scale shown under the advertisement Anx.1 to the petitioners. It is further pertinent to note that it is only the Government of Rajasthan and not the Rajasthan Council for Primary Education that decided to continue the petitioners and the persons similarly situated to continue in their original pay scale. The decision of the Government of Rajasthan in any manner cannot prevail over the decision of the Rajasthan Council for Primary Education that is the employer under whom the petitioners are working on deputation.

I do not find any force in the contention of counsel for the respondents that under the order dated 24.6.2000 a specific stipulation was there that the service conditions for deputation shall be declared separately, therefore, no right accrued in favour of the petitioners for getting their pay fixed in the pay scale of Rs.5500-9000. The order Anx.2 dated 24.6.2000 is an order of relieving from parent department and is issued by the Secretary, Department of Panchayati Raj (Elementary Education). The Department of Panchayati Raj is having no role to play in grant of pay scales in Rajasthan Council for Primary Education, where the petitioners are placed on deputation as what pay scale is required to be given to its employees is a subject within the domain of the council and not of the Panchayati Raj Department. In view of it, I am of the considered opinion that the petitioners are entitled for getting their pay fixed in the pay scale of Rs.5500-9000 from the date of their initial appointment with Rajasthan Council for Primary Education on deputation basis.

Accordingly, this petition for writ is allowed. The respondent council is directed to allow the pay scale of Rs.5500-9000 to the petitioners from the date they were appointed by way of deputation with the Rajasthan Council for Primary Education. The

arrears accruing as such shall also be paid to the petitioners expeditiously.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.